

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY  
 CAMDEN VICINAGE

Russell L. Lichtenstein, Esquire

4996

COOPER LEVISON APRIL NIEDELMAN & WAGENHEIM, P.A.

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File No.: 51154.22

Attorney for Defendant, Marina District Development Company, LLC d/b/a Borgata Hotel  
 Casino & Spa

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JOHAN DANIYAN,	:	
	:	NO. 07-cv-02734 (JHR)(JS)
Plaintiff,	:	
	:	
vs.	:	Civil Action
	:	
BORGATA HOTEL CASINO,	:	<b>ANSWER TO AMENDED</b>
	:	<b>COMPLAINT</b>
Defendant.	:	
	:	

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Marina District Development Company, LLC d/b/a Borgata Hotel Casino & Spa,  
 improperly named in the Complaint as Borgata Hotel Casino, by way of answer to plaintiff's  
 Complaint hereby says as follows:

NATURE OF THE CLAIMS

1. Denied generally insofar as defendant has been improperly identified. Denied  
 specifically insofar as there is no factual or procedural basis to bring any claim against Marina  
 District Development Company, LLC d/b/a Borgata Hotel Casino & Spa under any of the laws  
 referenced in this paragraph of plaintiff's Complaint and otherwise denied.

2. Denied insofar as defendant has been improperly identified and denied insofar as  
 there is no "common law wrongful termination" provisions in the State of New Jersey.

3. Denied.

JURISDICTION AND VENUE

4. This answering defendant is currently without information sufficient to answer the allegations of this paragraph of plaintiff's Complaint and leaves plaintiff to his proofs.

5. This answering defendant is currently without information sufficient to answer the allegations of this paragraph of plaintiff's Complaint and leaves plaintiff to his proofs.

6. Denied.

PARTIES

7. It is admitted that plaintiff is a former employee of Marina District Development Company, LLC d/b/a Borgata Hotel Casino & Spa. The remainder of this paragraph is denied.

8. Denied insofar as defendant has been improperly identified.

FACTUAL ALLEGATIONS

9. Denied.

10. Denied.

11. Denied.

12. It is admitted that plaintiff applied to and was hired by Marina District Development Company, LLC d/b/a Borgata Hotel Casino & Spa. The remainder of the allegations of this paragraph of plaintiff's Complaint is denied.

13. Denied.

14. Denied insofar as defendant has been improperly identified and otherwise denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. It is admitted that plaintiff's employment with Marina District Development Company, LLC d/b/a Borgata Hotel Casino & Spa was terminated. The remainder of this paragraph is denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

#### FIRST CAUSE OF ACTION

35. Defendant repeats and incorporates their response to the allegations contained in the previous paragraphs of plaintiff's Complaint as if more fully set forth herein.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

SECOND CAUSE OF ACTION

42. Defendant repeats and incorporates their response to the allegations contained in the previous paragraphs of plaintiff's Complaint as if more fully set forth herein.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

THIRD CAUSE OF ACTION

47. Defendant repeats and incorporates their response to the allegations contained in the previous paragraphs of plaintiff's Complaint as if more fully set forth herein.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

FIFTH CAUSE OF ACTION

52. Defendant repeats and incorporates their response to the allegations contained in the previous paragraphs of plaintiff's Complaint as if more fully set forth herein.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

FIFTH CAUSE OF ACTION

58. Defendant repeats and incorporates their response to the allegations contained in the previous paragraphs of plaintiff's Complaint as if more fully set forth herein.

59. Denied.

60. Denied.

61. Denied.

SEPARATE DEFENSES

1. Plaintiff's Complaint, or portions thereof, fail to state a claim upon which relief can be granted.

2. Plaintiff's Compliant, or portions thereof, are barred as a result of plaintiff's failure to commence this action within one year as required by the New Jersey Conscientious Employee Protection Act.

3. Plaintiff's Complaint, or portions thereof, is barred by the "waiver" provisions of the New Jersey Conscientious Employee Protection Act.

4. Plaintiff Complaint, or portions thereof, is barred as a result of plaintiff's own acts and/or failure to act.

5. Plaintiff has failed to exhaust his administrative remedies and, therefore, is prohibited from commencing and/or continuing this claim.

6. Plaintiff is not a "qualified individual" pursuant to the provisions of the Americans with Disabilities Act.

7. Plaintiff is not "disabled" within the meaning of the Americans with Disabilities Act.

8. Plaintiff is not "disabled" within the meaning of the New Jersey Law against Discrimination.

9. Plaintiff's initial Complaint filed in the Superior Court of New Jersey, Law Division, Essex County, was filed on June 16, 2006 according to the records of the Superior Court of New Jersey, Law Division, Essex County. Defendant has never been served with a copy of the original Complaint but, rather was only served with a copy of the Amended Complaint over a year thereafter. Defendants reserve the right to move to dismiss all allegations of the Amended Complaint which were also contained in the original Complaint as a result of the failure to serve the original Complaint within the time period provided by the Rules governing the Courts of the State of New Jersey.

JURY DEMAND

Trial by jury is hereby demanded as to all issues set forth herein.

NOTICE OF TRIAL COUNSEL

PLEASE BE NOTIFIED that Russell L. Lichtenstein, Esquire, is hereby designated as trial counsel in the above-captioned litigation on behalf of the firm of Cooper Levenson April Niedelman & Wagenheim, P.A.

COOPER LEVENSON APRIL NIEDELMAN & WAGENHEIM, P.A.

BY: /s/ Russell L. Lichtenstein

Russell L. Lichtenstein, Esquire  
Attorneys for Defendants, Marina District  
Development Company, LLC d/b/a Borgata  
Hotel Casino & Spa

Dated: 7/23/2007